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23 November 1981

Executive Reporting

81-5682

MEMORANDUM FOR: Chairman, National Intelligence Council

VIA: Director, National Foreign Assessment Center
Director of Global Issues

FROM: [REDACTED]
Chief, Geography Division, OGI

SUBJECT: Senior Interdepartmental Group Meeting on the Law
of the Sea (U)

1. Action Requested: Agency participation in a Senior Interdepartmental Group (SIG) meeting on the Law of the Sea (LOS) which is to be held in Room 1107 at the Department of State on 24 November at 1500 hours. The meeting, which will be chaired by James L. Buckley, Undersecretary of State for Security Assistance, Science and Technology, will review a LOS Memorandum for the President. [REDACTED] NIO-at-Large, and [REDACTED] CIA's representative on the Interdepartmental Group (IG) on LOS, are available to answer any queries. (U)

2. Background: The attached LOS Memorandum for the President presents a basic issue for Presidential decision--should the United States remain in the Third United Nations Conference on LOS and seek changes in the Draft Convention consistent with our LOS objectives or should it withdraw from the negotiations? The memorandum relies heavily on an Interdepartmental LOS Policy Review which has been underway for the last six months. This review evaluates the Draft LOS Convention in light of current and future US interests and objectives and, in short, finds that the non-seabeds issues of the Convention are generally acceptable and worth attaining, but that the major elements of the deep seabed mining regime are contrary to US needs and must be renegotiated. Because of the current LOS negotiating situation in which virtually all nations, including our industrial allies, favor the finalizing of a comprehensive treaty, the Interdepartmental Group finds that two basic policy options are currently available to the US:

(1) To withdraw from the LOS Conference prior to the next session (March 1982) because an acceptable deep seabeds regime is unattainable, and further negotiations on the existing text would reflect tacit acquiescence to the unrealistic economic goals of the LDCs.

(2) To continue the negotiations with the goal of improving the deep seabeds provisions while simultaneously safeguarding the in-place non-seabed provisions, particularly those which protect US military and commercial navigational freedoms. (S)

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3. Agency Positions: Since abrupt withdrawal from the Conference carries with it international political penalties, the risk of losing important navigational provisions, and negates our ability to improve the existing seabeds text, all the Departments, except Interior, favor Option 2--continuing the negotiations. Interior thinks, however, that Option 2 is too loosely worded and gives our negotiators too much leeway to drag the negotiations on and on. Interior recommends instead a new Option 3 which requires our negotiators to obtain changes in the deep seabed text, and to definitely attain the five negotiating objectives on this issue. Further, that the US should forthrightly state its "bottom line" views at the March 1982 session of the LOS Conference and any intersessional meetings prior to that session. (S)

The Department of Treasury favors Option 2, but recommends that the process for developing amendments and detailed negotiating positions be adjusted. Treasury proposes that new positions and amendments be reviewed, not only by the NSC, but by the Cabinet Council on Economic Affairs or the Cabinet Council on Natural Resources and the Environment (chaired by Treasury) to assure their consistency with US economic policy. (U)

4. Recommendations: The Agency has already concurred that the IG Memorandum to the President adequately reflects the conclusions of the LOS Policy Review and the policy choices available, and that they are broadly consistent with intelligence views on the issues. (U)

Should you choose to indicate your preference as between Option 1 (withdrawal from the negotiations) and Option 2 (continuing to negotiate) you bear in mind that most foreign governments participating in the negotiations covet US accession to the Treaty and are willing to delay adoption of the Draft Convention. The chances for modestly improving the deep seabed provisions seem good. Should the final Treaty, when the negotiations are completed, still not be satisfactory to the US, the US could still withhold ratification, but the Treaty would then be a somewhat better document for safeguarding overall US oceans interests. (S)

As for Interior's negotiating approach, I recommend that we view them as too "confrontational" in this delicate negotiating setting. How the US orchestrates its proposals will have a strong impact on the chances for success and the implications of failure. Should the President approve Option 2, we must expect from our negotiating team a series of well thought out plans and tactics, for both the intersessional meetings and the March 1982 session of the Conference. (C)

I have no views as to the value of a Cabinet Council, as well as the NSC, reviewing the development of US LOS positions. (U)

Attachment:
As stated.



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SUBJECT: Senior Interdepartmental Group Meeting on the Law of the Sea (U)

25X1 OGI/GD: [] (23Nov81)

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